MISCELLANY.

Ages of Supreme Court Justices.—The following table shows the present ages of the Justices of the Supreme Court of the United States:

Holmes	80
McKenna	78
Day	72
Brandeis	65
Taft	64
Clarke	64
Pitney	63
Van Devanter	62
McReynolds	59

The average age of a Justice is about 67½ years.

Agreement to "Hunt" Evidence Is Void.—Mr. Dresbach, an attorney at law, was employed by a Mr. Tills to prosecute an action for personal injuries against the Great Northern Railroad on a one-half contingent fee contract. Mr. Duteau alleged that Dresbach in turn employed him to "hunt up testimony and evidence and to seek out the witnesses and keep in touch with them" on an agreed consideration of one-half of the amount of Dresbach's fee. A judgment of $20,000 was recovered against the railroad company. Duteau, however, received only $265, and brought an action to recover the balance which he claimed was due.

A motion for judgment on the pleadings was sustained by the Superior Court of Washington on the theory that an agreement such as was alleged would be void as against public policy. The Supreme Court of Washington sustained this view in Duteau *v.* Dresbach, 194 Pacific Reporter, 547, in an opinion by Judge Mount. The court states: "The only issue left in the case, therefore, was whether or not the respondent entered in a contract with the appellant to divide his fee with the appellant upon his agreement to seek out the evidence 'in order that said defendant might be able to secure a judgment in said cause,' knowing that Mr. Dresbach's fee was contingent upon a judgment being secured. We have no doubt that a contract of this kind is against public policy and void."

Be Good to the Court.—In Miller *v.* Territory, 149 Fed. 334, the court said: "One of the surest methods for counsel to inspire a proper dignity on the part of the court and to obtain fair treatment is by their own respectful deportment and fairness to impress the court with a belief in their intellectual honesty and sincerity, rather than by persistent contention, contradiction, and wrangling with the court, and at times rejecting improper matters into the trial, invite antagonism from

the court and drive it from its propriety. To many of the unpleasant and reprehensible incidents of the trial complained of by counsel for defendant, the maxim might well be applied: *'Communis error facit jus.*"

Intercepted Love Note Admissible as Evidence.—"He" was a poor married man. "She" was a bewitching widow, with some property. Fate, or perchance it was love, brought them together in an unromantic printing shop. She loaned him money from time to time, had him out to her farm for five weeks, and on two occasions went with him to New York, and, according to the testimony of his wife, spent the night with him. This, however, was denied by defendant, and testimony was introduced showing the innocent character of these escapades. She also wrote him charming letters, which read as if they had been penned by St. Valentine. Here is a sample of one of these endearing billets doux: "Dear, be careful to destroy my letters; they might give trouble. This is dangerous, you know. Please write often, and I will to you, my best beloved. Look into my heart and read all that I dare not write you. With love, your Sweetheart." But, alas, his wife intercepted this note, and suit was commenced for alienation of affections.

The letter was introduced as evidence, and objected to as irrelevant on the ground that, as the letter was not received, it could not have alienated his affections. However, the Court of Errors and Appeals of New Jersey held that it was admissible in Mercer *v.* Parsons, 112 Atlantic Reporter, 254, in an opinion by Judge White, who says:

"It is said, however, that this letter was harmless and irrelevant, because it never reached the husband (the wife opened it when the children brought it home from the post office and then quietly kept it), and consequently it could not have alienated his affections. This criticism (ignoring the obvious fallacy of the suggestion that such a letter so intercepted is ever harmless) might have some force if the letter were the only evidence in the case. But considered in conjunction with the proved previous performances, the letter is quite illuminating, and is certainly relevant."

Kid Glove and Dilettante.—In Manning *v.* Railroad, 122 N. C. 828, 28 S. E. 963, the court discussed the duty of clients to look after their lawsuits, and not surrender the matter entirely to the hands of their counsel, and deprecated the system of employing counsel nonresident in the county where the action is pending, or not regularly attending that court, and said: "Our laws do not recognize this leisurely, kid-glove, and dilettante manner of attending to legal proceedings at long range."

Obliging Minister Obliged to Go to Jail.—According to the defendant's testimony in a prosecution for unlawful transportation of liquor,

he was a minister of 45 years' standing, 26 of which had been spent in Oklahoma, and while waiting at the depot to take a train for his home was asked by a stranger if he was the pastor of the Methodist Church at Eufaula. Upon receiving an affirmative answer, he was asked to carry a suit case to that place, where there would be some waiting for it. The minister agreed to do so and upon his arrival he was met by an officer, who accompanied him to the colored church and asked what the grip contained. He denied knowledge of its contents, which on being opened proved to be whisky.

He was arrested and upon conviction was given the maximum penalty which required him to serve six months in the county jail and to pay a fine of $500. On appeal, the Criminal Court of Appeals of Oklahoma, in Williams *v.* State, 193 Pacific Reporter, 432, affirmed the conviction but modified the judgment by reducing the term of imprisonment to 30 days and the amount of the fine to $100. Presiding Judge Doyle wrote the opinion, in which it was held that while the evidence was legally sufficient to sustain the conviction the punishment assessed was unduly extreme and excessive.

The Law Is for All to Obey.—A New York City judge recently saw fit to commit to jail a member of the police force for an assault upon a civilian. In so doing he called timely attention to the growing tendency of police officers to overstep the limits of their authority.

Nothing breeds greater disrespect for the law than lawlessness on the part of the agencies charged with enforcing it. Minor courts in some of the larger cities have brought undeserved criticism upon the entire institution of courts, because of the misguided efforts of a few incumbents of the bench. Police departments in nearly all the large cities have acquired disfavor from similar causes.

Too great zeal in the punishment for crime is at least as harmful as too great laxness. The American idea has always been that it is better to err on the side of mercy than on the side of injustice. The maxim that it is better to allow 99 guilty persons to escape than to inflict punishment wrongfully in one case, is as wise in these days of so-called crime waves, as it was in the most piping times of peacefulness.

In American cities, courts and police departments alike owe their continuance to some sort of political favor. New or shallow incumbents of the bench or heads of police departments are apt to cater to public favor by going sled-length in the enforcement of some measure which attracts momentary popular interest. In a few cities, where the tremendous power of some newspapers has inflicted an invisible government upon the municipalities, the activity of courts and police is especially dangerous.

It is a human failing for a man to become intoxicated with power. Rare indeed is the individual who will exercise with forbearance

newly-imposed powers. Police officers have been prone to exceed their lawful duties. Too often they look upon the club as their wand of authoritty to be waved and wielded on slight provocation, rather than for use as a last resort. Too often they speak in the rough tone of command, rather than with the calm persuasiveness which appeals to American reasonableness. It has been a fault of American police organization that men are arrayed with the garb of authority without having been instructed in the way it should be worn.

The age of the mailed fist is gone. Police should be taught that the quiet, courteous word of direction, rather than the truculent voice of command is more readily heeded by Americans. Capable police officers will lose none of their power to meet emergencies with force, through the conservation of that quality.

It lies with the proper municipal officials to restrain the unbridled exercise of authority by police officers. An added sense of responsibility is needed by some of the judges. Lawful enforcement of the law is imperative.—*The Dearborn Independent.*

Use of Word "Crook" Not Slanderous Per Se.—Since the word "crook" is applied to many persons who are not guilty of crime, Mr. Justice Smith, of the New York Supreme Court in the Appellate Division, First Department, in Villemin *v.* Brown, 184 New York Supplement, 570, was of the opinion that to say that a woman was a crook was not slanderous per se. In support of the ruling he said: "In the Century Dictionary the word is defined as: 'A dishonest person; one who is crooked in conduct; a tricky or underhand schemer; a thief or swindler.' In the Oxford Dictionary 'crooked,' in referring to the quality of a person, is defined as: 'Deviating from rectitude or uprightness; not straightforward; dishonest; wrong; perverse.'" The Presiding Justice and Mr. Justice Greenbaum concurred. Mr. Justice Dowling wrote a dissenting opinion, in which he quotes different versions of the Holy Bible, Sir Francis Bacon, Bishop Taylor, March's Thesaurus, Roget's Thesaurus, Fuller's Worthies, various dictionaries, comic opera, books on Americanisms, and newspapers, and reaches the conclusion that, in view of common accepted meanings, the word might have been properly held by the jury to have been slanderous per se. Mr. Justice Page concurred in the dissent.